

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

**TIVO INC.,**

**Plaintiff,**

**vs.**

**DISH NETWORK CORPORATION,  
et al.,**

**Defendants.**

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**CIVIL ACTION NO. 2:04-CV-01 (DF)**

**ORDER**

Before the Court is EchoStar's Motion to Suspend Proceedings on TiVo's Motion for Sanctions. Dkt. No. 957. Also before the Court are TiVo's response and Echostar's reply. Dkt. Nos. 962 and 963. Having considered the arguments of counsel, all relevant papers and pleadings, the Court finds that EchoStar's motion should be **DENIED**.

On June 2, 2009, the Court issued a memorandum opinion and amended final judgment finding EchoStar in contempt of this Court's injunction. Dkt. Nos. 929 and 932. The Court, however, retained jurisdiction to enforce its order "including the award of monetary sanctions for EchoStar's contempt . . . ." Dkt. No. 932 at 3. The Court placed the issue of contempt sanctions on a briefing schedule and set the matter for hearing on July 28, 2009. Dkt. No. 930.

EchoStar now asks the Court to suspend proceedings regarding sanctions in light of the Federal Circuit's recent stay. Dkt. No. 957. EchoStar argues that, due to the Circuit's stay, there is no basis at this time for any award of sanctions. *Id.* at 2. Moreover, EchoStar contends that judicial economy will be best served by delaying disposition of the issue. *Id.* at 3. In response, TiVo argues

that the Circuit's stay only covered this Court's injunction and does not preclude this Court from going forward on the issue of contempt sanctions.

Having considered the Circuit's stay order, the Court finds that the order does not preclude this Court from resolving the sanctions issue at this time. Instead, the Circuit merely stayed the injunction in this case and stayed this Court's order that EchoStar take certain steps (i.e. disable DVR functionality) in light of the injunction. *See* Dkt. No. 956, Ex. 1. Furthermore, the Court finds that judicial economy is best served by having the benefit of any sanction ruling before the Circuit when it decides EchoStar's appeal. The Court will, however, stay the enforcement of any sanction pending resolution of that appeal.

For the reasons stated above, EchoStar's Motion to Suspend Proceedings on TiVo's Motion for Sanctions (Dkt. No. 957) is hereby **DENIED**.

**SIGNED this 14th day of July, 2009.**

A handwritten signature in black ink, appearing to read "David Folsom", is written over a horizontal line.

DAVID FOLSOM  
UNITED STATES DISTRICT JUDGE